

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**NANCY LEWIS,**

Plaintiff,

v.

**Civ. No. 09-962 LH/RHS**

**BURGER KING,**

Defendants.

**MEMORANDUM OPINION AND ORDER**


THIS MATTER comes before the Court on pro se plaintiff Nancy Lewis' Motion to Proceed *in forma pauperis* ("IFP"), filed October 1, 2009, *see* Doc. 2, and on the Court's concomitant obligation "to review the affidavit and screen [her] case under 28 U.S.C. §§ 1915(a) and (e)." *Lister v. Dep't of Treasury*, 408 F.3d 1309, 1311 (10<sup>th</sup> Cir. 2005).

Screening the case under § 1915(e) includes determining whether "the allegation of poverty is untrue" as well as determining whether the action "is frivolous or malicious, . . . fails to state a claim on which relief may be granted; or [] seeks monetary relief against a defendant who is immune from such relief." § 1915(e). "[I]n order to succeed on a motion to proceed IFP, the movant must show a financial inability to pay the required filing fees, as well as the existence of a reasoned, nonfrivolous argument on the law and facts in support of the issues raised in the action." *Lister*, 408 F.3d at 1312.

Lewis' financial affidavit shows that she has no dependents; that she has an income of \$1243/month; that she owns a car; that she has an undisclosed amount of money in the bank, and that her monthly expenses are only \$503/month. *See* Doc. 2. Lewis' allegation of poverty is untrue, and she has failed to establish that she is unable to pay the filing fees in this case

**NOW, THEREFORE, IT IS ORDERED** that Lewis' motion to proceed IFP [Doc. 2] is

DENIED, and that Lewis shall pay the filing fees in full within five days of the issuance of this Order or her Complaint will be dismissed without further notice.

  
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SENIOR UNITED STATES DISTRICT JUDGE